THE HYDERABAD CO-OPERATIVE SOCIETIES ACT, No. XVI OF 1952.

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*THE HYDERABAD CO-OPERATIVE SOCIETIES ACT, 1952.

No. XVI OF 1952.

Whereas it is expedient to amend the law relating to Co-operative societies in the Hyderabad State so as to make better provision for such societies;

It is hereby enacted as follows :—

PRELIMINARY.

Short title, extent and commencement.

1. (1) This Act may be called the Hyderabad Co-operative Societies Act, 1952.

(2) It extends to the whole of the Hyderabad State and shall come into force from the date of its publication in the Jarida.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context—

(*a*) "bye-laws" means bye-laws registered or deemed to be registered under this Act and includes a registered amendment of such bye-laws;

(*b*) "dividend" means a share of the profits of a registered society divided among its members in proportion to the share capital held by them;

(*c*) "general body" means—

(*i*) in relation to a registered society whose bye-laws contain provision in the sense authorised by sub-section (4) of section 7, the body elected by prescribed constituencies of members of the society;

(*ii*) in relation to any other registered society, all the members of the society;

(*d*) "general meeting" means a meeting of the general body of the registered society;

(*e*) "Managing Committee" means the governing body to whom the management of the affairs of a registered society is entrusted;

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(*f*) "member" includes a person joining in the application for the registration of a society and a person admitted to membership after registration in accordance with the rules or bye-laws;

(*g*) "officer" includes a President, Vice-President, Chairman, Vice-Chairman, Secretary, Assistant Secretary, Treasurer, member of the Managing Committee or other person empowered under the rules or bye-laws, to give directions in regard to the business of the society;

(*h*) "prescribed" means prescribed by rules;

(*i*) "rebate" means a share of the profits of a registered society divided among its members in proportion to the volume of business done with the society by them from which the profits of the society were derived;

(*j*) "registered society" means a society registered or deemed to be registered under this Act;

(*k*) "Registrar" means a person appointed to perform the duties of a Registrar of Co-operative Societies under this Act;

(*l*) "rules" means rules made under this Act.

REGISTRATION.

Registrar.

3. The Government may appoint a person to be Registrar of Co-operative Societies for the Hyderabad State or any portion thereof, and may appoint persons to assist such Registrar and may, by general or special order, confer on any such person all or any of the powers of a Registrar under this Act.

Societies which may be registered with limited or unlimited liability

4. (1) Subject to the provisions hereinafter contained, a society which has as its object the promotion of the common interests of its members in accordance with co-operative principles, or a society established with the object of facilitating the operations of such a society may be registered under this Act with or without limited liability:

Provided that, unless the Government by general or special order otherwise directs—

(*a*) the liability of a society of which a member is a registered society shall be limited;

(*b*) the liability of a society of which the primary object is the creation of funds to be lent to its members and of which the majority of the members are agriculturists and belong to the same village and of which no member is a registered society shall be unlimited and the members of such a society shall, on its liquidation, be jointly and severally liable for and in respect of all obligations of such society.

(2) At the time of registration of a society the Registrar shall, subject to the proviso to sub-section (1), decide whether its liability shall be limited or unlimited and his decision shall, subject to section 12, be final.

Conditions of Registration.

5. (1) No society, other than a society of which a member is a registered society, shall be registered under this Act which does not consist of at least ten persons above the age of eighteen years and, where the object of the society is the creation of funds to be lent to its members, unless such persons reside in the same town or village or in the same group of villages.

(2) The word "limited" shall be the last word in the name of every society with limited liability registered under this Act.

(3) The word "co-operative" or its equivalent in the language in which the bye-laws are submitted for registration shall form part of the name of every society registered under this Act.

Registrar to decide certain questions.

6. When any question arises—

(*i*) whether a person is an agriculturist, or

(*ii*) whether any person is a resident in a town or group of villages, or

(*iii*) whether two or more villages shall be considered to form a group,

such question shall, for the purposes of this Act, be decided by the Registrar, whose decision shall be final, and shall not be called in question in any legal proceedings.

Application for Registration.

7. (1) A society desiring to be registered shall apply to the Registrar in the prescribed form.

(2) The application shall be signed—

(*a*) in the case of a society of which no member is a registered society, by at least ten persons qualified in accordance with the requirements of sub-section (1) of section 5, and

(*b*) in the case of a society of which a member is a registered society, by a duly authorised person on behalf of every such registered society, and where all the members of the society are not registered societies, by ten other members or when there are less than ten other members by all of them.

(3) The application shall be accompanied by a copy of the proposed bye-laws of the society and the persons by whom or on whose behalf such application is made, shall furnish such information in regard to the society as the Registrar may require.

(4) In the case of a society with an extensive membership or a wide geographical distribution, the proposed bye-laws may provide that the general body of the society shall be a body elected by prescribed constituencies comprising in the aggregate all the members of the society.

Registration.

8. If the Registrar is satisfied, after such enquiry as may be prescribed, that a society has complied with the provisions of this Act and the rules and that its proposed bye-laws are not contrary to this Act or to the rules, he may, if he thinks fit, register the society and its bye-laws.

Evidence of registration.

9. A certificate of registration signed by the Registrar shall be conclusive evidence that the society mentioned therein is duly registered, unless it is proved that the registration of the society has been cancelled.

Amendment of the bye-laws of a registered society.

10. (1) No amendment of the bye-laws of a registered society, whether by way of cancellation, addition or alteration shall be valid until it is approved by a resolution of a General Meeting and registered under this Act, for which purpose a copy of the amendment shall be forwarded to the Registrar.

(2) If the Registrar is satisfied that an amendment of the bye-laws is not contrary to this Act or to the rules, he may register the amendment.

(3) When an amendment is registered under sub-section (2) the Registrar shall forward to the society a certified copy of such amendment which shall be conclusive evidence that the same is duly registered.

(4) If it appears to the Registrar that an amendment of the bye-laws of a registered society is necessary or desirable in the interest of such society, he may call upon the society in the manner prescribed to make the amendment within such time as he may specify.

(5) If the society fails to make the amendment within the time specified, the registrar may, after giving the society an opportunity of being heard, register such amendment and forward to the society, in the manner prescribed, a copy of the amendment together with a certificate signed by him which shall be conclusive evidence that the amendment has been registered; and such amendment shall thereupon be binding on the society and its members.

(6) The society may within one month from the date of receipt by it of the copy and certificate referred to in sub-section (5) appeal to Government against the registration of the amendment.

Change of name and affect.

11. A society may, by a resolution of a General Meeting and with the approval of the Registrar, change its name but such change shall not affect any right or obligation of the society or of any of its members or past members and any legal proceedings pending may be continued by or against the society under its new name.

Change of liability.

12. (1) Subject to the prescribed conditions, a registered society, may, with the previous sanction of the Registrar, change its liability from limited to unlimited or from unlimited to limited:

Provided that—

(*i*) the society shall give notice in writing of its intention to change its liability to all its members and creditors;

(*ii*) any member or creditor shall, notwithstanding any bye-law or contract to the contrary, have the option of withdrawing his shares, deposits or loans, as the case may be, within three months of the service of such notice on him and the change shall not take effect untill all such claims have been satisfied; and

(*iii*) any member or creditor, who does not exercise his option within the period aforesaid, shall be deemed to have assented to the change.

(2) Notwithstanding anything contained in the proviso to sub-section (1), the change shall take effect at once if all the members and creditors assent thereto.

Division of Societies.

13. (1) Any registered society may, at a General Meeting specially called for the purpose of which at least seven clear days' notice shall be given to its members, resolve to divide itself into two or more societies. The resolution (hereinafter in this section referred to as the priliminary resolution) shall contain proposals for the division of the assets and liabilities of the society among the new societies into which it is proposed to divide it and may prescribe the area of operations of, and specify the members who will constitute, each of the new societies.

(2) (*i*) A copy of the preliminary resolution shall be sent to all the members and creditors of the society.

(*ii*) Any member of the society may, notwithstanding any bye-law to the contrary, by notice given to the society within a period of three months from the receipt of the preliminary resolution, intimate his intention not to become a member of any of the new societies.

(*iii*) Any creditor of the society, may, notwithstanding any agreement to the contrary, by notice given to the society within the said period, intimate his intention to demand a return of the amount due to him.

(3) After the expiry of three months from the receipt of the preliminary resolution by all the members and creditors of the society, a General Meeting of the society, of which at least fifteen clear days' notice shall be given to its members, shall be convened for considering the preliminary resolution. If, at such meeting, the

preliminary resolution is confirmed by a resolution passed by a majority of not less than two-thirds of the members present, either without changes or with such changes as in the opinion of the Registrar, are not material, he may, subject to the provisions of sub-section (5) and of section 8, register the new societies and the bye-laws thereof. On such registration the registration of the old society shall be deemed to have been cancelled.

The opinion of the Registrar as to whether the changes made in the preliminary resolution are or are not material shall be final and no appeal shall lie there from.

(4) At the meeting referred to in sub-section (3) provision shall be made by another resolution for;

(i) the repayment of the share capital of all the members who have given notice under clause (ii) of sub-section (2); and

(ii) the satisfaction of the claims of all the creditors who have given notice under clause (iii) of sub-section (2):

Provided that no member or creditor shall be entitled to such repayment or satisfaction until the preliminary resolution is confirmed as provided in sub-section (3).

(5) If, within such time as the Registrar considers reasonable, the share capital of the members referred to in sub-section (4) is not repaid or the claims of the creditors referred to in that sub-section are not satisfied, the Registrar may refuse to register the new socities.

(6) The registration of the new societies shall be a sufficient conveyance to vest the assets and liabilities of the original society in the new societies in the manner specified in the preliminary resolution as confirmed under sub-section (3).

Amalgamation of Societies.

14. (1) Two or more registered societies may, at General Meetings of the respective societies specially called for the purpose of which at least seven clear days' notice shall be given to their respective members, resolve to amalgamate into one society. This resolution is hereinafter in this section referred to as the preliminary resolution.

(2) (i) A copy of the preliminary resolution of each society shall be sent to all the members and creditors thereof.

(ii) Any member of any such society may, notwithstanding any bye-law to the contrary, by notice given to the society of which he is a member within a period of three months from his receipt of the preliminary resolution, intimate his intention not to become a member of the new society.

(iii) Any creditor of any such society may, notwithstanding any agreement to the contrary, by notice given to the society of which he is a creditor within the said period, intimate his intention to demand a return of the amount due to him.

(3) After the expiry of three months from the receipt of the preliminary resolution by all the members and creditors of all the societies a joint meeting of the members of such societies of which at least fifteen clear days' notice shall be given to them, shall be convened for considering the preliminary resolution. If, at such meeting, the preliminary resolution is confirmed by a resolution passed by a majority of not less than two-thirds of the members present, either without changes or with such changes as, in the opinion of the Registrar, are not material, he may subject to the provisions of sub-section (5) and of section 8 register the new society and the bye-laws thereof. On such registration, the registration of the old societies shall be deemed to have been cancelled.

The opinion of the Registrars as to whether the changes made in the preliminary resolution are or are not material shall be final and no appeal shall lie therefrom.

(4) At the joint meeting referred to in sub-section (3) provision shall be made by another resolution for—

(i) the repayment of the share capital of all the members who have given notice under clause (ii) of sub-section (2): and

(ii) the satisfaction of the claims of all the creditors who have given notice under clause (iii) of sub-section section (2):

Provided that no member or creditor shall be entitled to such repayment or satisfaction until the preliminary resolution is confined as provided in sub-section (3).

(5) If, within such time as the Registrar considers reasonable, the share capital of the members referred to in sub-section (4) is not repaid or the claims of the creditors referred to in that sub-section are not satisfied, the Registrar may refuse to register the new society.

(6) The registration of the new society shall be a sufficient conveyance to vest in it all the assets and liabilities of the original societies.

RIGHTS AND LIABILITIES OF MEMBERS.

Members not to exercise rights till due payment is made; questions regarding membership to be decided by Registrar.

15. (1) No member of a registered society shall exercise the rights of a member unless he has made such payment to the society in respect of membership or acquired such interests in the society as may be prescribed or as may be required by the bye-laws.

Restriction of membership in society.

(2) If any question arises in relation to any provision of this Act whether a person is or has been a member of a registered society, the question shall be decided by the Registrar whose decision shall be final.

Restriction of purchase of shares of a society with limited liability.

16. Except with the sanction of the Registrar no person shall be a member of more than one registered society whose primary object is to grant loans to its members.

17. Where the liability of the members of a society is limited by shares, no member other than a registered society shall—

(a) hold more than one-fifth of the share capital of the society, or such smaller fraction thereof as may be prescribed; or

(b) hold or claim any interest in the shares of the society exceeding Rs. 5,000:

Provided that Government may, by notification in the Jarida, exempt the members of any specified society from the restriction imposed by clause (b).

Votes of members.

18. (1) Whether or not, the liability of the members of the society is limited by shares, no member of any registered society shall have more than one vote in the affairs of the society:

Provided that in the case of an equality of votes the Chairman shall have a casting vote:

Provided further that in the case of a society of which a registered society is a member, that society shall have such voting power as may be prescribed.

Restriction on transfer of share or interest.

19. (1) In the case of a society registered with unlimited liability a member shall not transfer or charge any share held by him or his interest in the capital of the society or any part thereof unless—

(a) he has held such share or interest for not less than one year; and

(b) the transfer or charge is made to the society or to a member of the society.

2. The transfer or charge of the share or interest of a member in the capital of a registered society shall be subject to such conditions as may, subject to sub-section (1), be prescribed.

DUTIES OF REGISTERED SOCIETIES.

Address of societies.

20. (1) Every registered society shall have an address registered in accordance with the rules, to which all notices and communications may be sent and shall send notice in writing to the Registrar of any change in the said address within 30 days of such change.

(2) Notwithstanding the fact that the address of a registered society is specified in its bye-laws a change in the address so specified shall not be deemed to necessitate the amendment of the bye-laws.

Copy of Act, rules and bye-laws to be open to inspection.

21. (1) Every registered society shall keep a copy of this Act and of the rules governing such society, and of its bye-laws open to inspection free of charge at all reasonable times at its registered address.

(2) Every registered society shall maintain its head office at its registered address.

Holding of General Meeting and Managing Committees.

22. (1) Every registered society shall hold its annual ordinary general meeting within three months of the last day of June.

(2) The Managing Committee may call a special General Meeting at any time and shall call such Meeting within a month—

(a) on the requisition in writing of one-fifth of the members of the registered society; or

(b) at the instance of the Registrar or of a person empowered by him in this behalf.

(3) The Registrar or a person authorised by him in this behalf may, notwithstanding the provisions contained in the bye-laws of a registered sociey for holding General Meetings or meetings of the Managing Committee, call a general meeting or a meeting of the Managing Committee at any time, and all the provisions of the bye-laws applicable to a meeting called in accordance therewith shall apply to a meeting called under this sub-section.

Societies to be bodies corporate.

23. The registration of a society shall render it a body corporate by the name under which it is registered with perpetual succession and a common seal and with power to hold property, to enter into contracts, to institute and defend suits and other legal proceedings, and to do all things necessary for the purposes of its constitution.

Prior claims of society.

24. Subject to any prior claim of Government in respect of land revenue or any money recoverable as land revenue, or of a landlord in respect of money payable on account of a lease or khowl—

(a) any debt or outstanding demand owing to a registered society by any member or past member or by the estate of a deceased member shall be a first charge on all crops or other agricultural produce, cattle, fodder, agricultural or industrial implements, plant, machinery, raw matrials and stock-in-trade and generally all produce of labour and things used in connection with production raised, purchased or produced in whole or in part on any loan whether in money or in goods given to the member, past member or deceased member by the society within a period of two years preceding the date on which the debt or outstanding demand is sought to be recovered;

(b) any outstanding demands or dues payable to a registered housing society by anf member or past member or by the estate of a deceased member in respect of rents, shares, loans or purchase money or any other rights or amounts payable to the society shall be a first charge on the interest of the member, past member or the estate in the immovable property of the society.

Charge and set-off in respect of shares or interest of members.

25. (1) Any debt or outstanding demand owing to a registered society by any member or past member of the society, shall be a first charge upon the following properties of such member or past member, namely;

(a) his share or interest in the capital;
(b) his deposit;
(c) his dividend;
(d) his rebate;
(e) any other profit payable to the member.

(2) The society may in accordance with the prescribed conditions set off any sum credited or payable to a member or past member in or towards payment of any such debt or outstanding demand.

Shares or interest not liable to attachment.

26. Subject to the provision of section 25, the share or interest of a member in the capital of a registered society shall not, save in so far as may te prescribed, be liable to attachment or sale under any decree or order of any civil or revenue court in respect of any debt or liability incurred by such member.

Provision for deductions from salary or wages.

27. If a member of a registered society has, whether before or after the commencement of this Act, executed an agreement in favour of the society providing that his employer shall be competent to make from the salary or wages payable to him by the employer such deductions as are specified in the agreement and to pay the amounts so deducted to the society, the society may by notice in writing require the employer to make the deductions specified in the agreement and to pay the amounts deducted to the society and upon the receipt of such notice the employer shall, notwithsanding anything contained in the Payment of Wages Act, 1936, or in any other law for time being in force, for so long as any part of the debt or payment owing ,by the member to the society remains unsatisfied make the deductions and pay the amounts deducted to the society.

Transfer of interest on the death of a member.

28. (1) On the death of a member, a registered society may transfer the share or interest of the deceased member to the person nominated in the prescribed manner or, if there is no person so nominated, to such person as may appear to the managing committee to be the heir or legal representative of the deceased member, or may pay to such nominee, heir or legal representative as the case may be, a sum representating the value of such members' share or interest, as ascertained in the prescribed manner or in accordance with the bye-laws:

Provided that—

(i) in the case of a society with limited liability such nominee, heir or legal representative, as the case may be, may require payment by the society of the value of the share or interest of the deceased member ascertained as aforesaid;

(ii) in the case of a society with limited liability the society shall transfer the share or interest of the deceased member to such nominee, heir or legal representative, as the case may be, if he is qualified in accordance with the rules and bye-laws for membership of the society, or on his application made within one month of the death of the deceased member to any person specified in the application who is so qualified.

(2) A registered society shall pay all other moneys due to the deceased member from the society to such nominee, heir or legal representative, as the case may be.

(3) All transfers and payments made by a registered society in accordance with the provisions of this section shall be valid and effectual against any demand made upon the society by any other person.

Liability of past member or of the estate of a deceased member.

29. (1) The liability of a past member of the estate of a deceased member for the debts of a registered society as they existed on the date of his ceasing to be a member or of his death, as the case may be, shall continue for a period of two years from such date.

(2) If before the expiry of two years the registration of the society is cancelled under section 53 or 54 the liability of a past member or of the estate of a deceased member shall continue until the assets and liabilities of the society have been determined.

Register of members.

30. Any register or list of members or shares kept by any registered society shall be prima facie evidence of any of the following particulars entered therein:—

(a) the date at which the name of any person was entered in such register or list as a member;

(b) the date at which any such person ceased to be a member;

(c) the number of shares purchased by any person.

Proof of entries in societies books.

31. (1) A copy of any entry in a book of a registered society regularly kept in the course of business shall, if certified in the manner prescribed, be received in any suit or legal proceedings, as prima facie evidence of the existence of such entry, and shall be admitted as evidence of the matters, transactions and accounts therein recorded in every case where, and to the same extent as, the original entry itself would be admissible;

(2) No officer of any registered society shall, in any legal proceedings to which the society is not a party be compelled to produce any of the society's books the contents of which can be proved under sub-section (1) or to appear as a witness to prove any matters, transactions or accounts therein recorded, unless the Court for special reasons so directs.

Exemption of certain instruments of a registered society from the operation of the Registration Act.

32. Nothing in clauses (b) and (c) of sub-section (1) of section 17 of the Indian Registration Act, 1908, shall apply to:—

(1) any instrument relating to shares in a registered society, notwithstanding that the assets of such society consist in whole or in part of immovable property, or

(2) any debenture issued by any suce society and not creating, declaring, assigning, limiting, or extinguishing any right, title or interest to or in any immovable property, except in so far as it entitles the holder to the security afforded by a registered instrument whereby the society has mortgaged or otherwise transferred the whole or part of its immovable property or any interest therein to trustees for the benefit of the holders of such debentures; or

(3) any transfer of or any endorsement upon any debenture issued by any shch society.

Power to exempt from stamp duty, registration fee and income tax.

33. The Government may, by notification in the Jarida, exempt any registered society or class of registered societies from--

(a) the stamp duty, not being a duty falling within item 91 or item 96 in list I in the Seventh Schedule to the Constitution of India, with which, under any law for the time being in force, instruments executed by or on behalf of a registered society or by an officer or member and relating to the business of such society or any class of such instruments are respectively chargeable;

(b) any fee payable under any law relating to registration for the time being in force;

(c) any court fee, not being a fee falling within item 77 or item 96 in list I in the Seventh Schedule to the Constitution of India, payable under any law relating to court fees for the time being in force on instruments, decisions orders, or awards, under this Act, of the Registrar, or of arbitrators. or of liquidators;

(d) the agricultural income-tax payable in respect of the profits of the society or of the dividends or other payments received by the members of the society on account of profits or in respect of interest on securities held by the society.

Audit.

34. (1) The Registrar shall by himself or by some person authorised by him in writing by general or special order in such form as may be prescribed in this behalf, audit the accounts of every registered society once at least in every year.

(2) An audit under sub-section (1) shall include an examination of over due debts, the verification of cash balances and securities and a valuation of the assets and liabilities of the society.

(3) The Registrar or other person authorised by him under sub-section (1) shall at all times have free access to the books, accounts, documents, securities and vouchers of any society and every member, officer, agent or servant of the society shall furnish to the Registrar or such person such information as he may require.

PROPERTY AND FUNDS OF REGISTERED SOCIETIES.

Restriction on loans.

35. (1) A registered society shall not make a loan to any person other than a member:

Provided that, with the general or special sanction of the Registrar, a registered society may make loans to another registered society.

(2) Save with the sanction of the Registrar a society with unlimited liability shall not lend money on the security of movable property.

(3) The Government may, by general or special order, prohibit or restrict the lending of money and mortgage of immovable property by any registered society or class of registered societies.

Restriction on borrowings.

36. (1) A registered society shall receive deposits and loans from persons who are not members to such extent and under such conditions only as may be prescribed, or specified in the bye-laws.

(2) Notwithstanding anything contained in any other law for the time being in force, the Government may, subject to any prescribed conditions, grant loans to, take shares in, or afford financial assistance in any other form to any registered society.

Restrictions on other transactions with non-members.

37. In respect of matters not provided for in sections 35 and 36 the transactions of a registered society with persons other than members shall be subject to such prohibitions and restrictions, if any, as may be prescribed.

Disposal of articles produced by members.

38. A registered society which has as one of its objects the disposal of any article produced or obtained by the work or industry of its members, whether the produce of agriculture, animal husbandry, forestry, fisheries, handicrafts or otherwise, may provide in its bye-laws or may otherwise contract with its members:—

(a) that every such member who produces any such article shall dispose of the whole or any specified amount, proportion or description therreof to or through the society; and

(b) that any member who is proved or adjudged, in such manner as may be prescribed, to be guilty of a

breach of the bye-laws or of any such contracts, shall pay to the society as liquidated damages a sum ascertained or assesed in such manner as may be prescribed.

Investment of funds.

39. A registered society may invest or deposit its funds—

(a) in promissiory notes of the Government;

(b) with the approval of the Registrar in the shares or securities of any other registered society, whose liability is limited;

(c) with the Hyderabad State Bank or with any Saving or Co-operative Bank or with the Post Officer;

(d) with any other bank approved or in any other mode permitted by the Registrar.

Restriction on distribution of profits.

40. (1) After at least one-fourth of the net profits of a registered society in any year have been carried to the reserve fund and any other prescribed requirements in regard to the setting aside of funds from the net profits have been fulfilled, the remainder of such profits and any profits of past years available for distribution may be distributed among the members of the society to such extent and subject to such conditions as may be prescribed:

Provided that if the amount sanding to the credit of the reserve fund of a society is not less than the amount of the paid up capital, the Registrar may authorise the reduction of the portion of the net profits of any year to be carried to the reserve to such portion not being less than one-tenth as may be prescribed.

(2) Save as provided in sub-section (1) no part of the funds of a registered society shall be divided by way of rebate or dividend or otherwise among its members.

Contribution to public purposes.

41. Any registered society may, after one-fourth of the net profits in any year have been carried to the reserve fund, apply an amount not exceeding 20 per cent. of the remaining net profits to any co-operative, educational or other public purpose or purposes approved by the Registrar.

INQUIRY AND INSPECTION.

Inquiry.

42. The Registrar may of his own motion, and

(a) at the request of the taluqdar within whose jurisdiction the head office of the society is situated;

(b) on the application of an affiliated society;

(c) on the application of a majority of the managing committee; or

(d) on the application of not less than one-third of the members;

shall, hold an inquiry, or direct some person authorised by him by order in writing in this behalf to hold an inquiry, into the constitution, working and financial conditions of any registered society.

Inspection.

43. The Registrar shall, on the application of any creditor or shareholder of a registered society, inspect or direct some person authorised by him by order in writing in this behalf to inspect, the books of the society:

Provided that—

(a) the applicant satisfies the Registrar that there is due to him a debt or share and that he has demanded payment thereof and has not received satisfaction within a reasonable time; and

(b) the applicant deposits with the Registrar such sum as security for the costs of the proposed inspection as the Registrar may require.

Powers of persons inspecting or inquiring.

44. (1) The Registrar or person authorised by him under section 42 or section 43 may;

(a) inspect the books of accounts, vouchers, documents, securities and cash balances of the society;

(b) call upon any person who in his opinion have information in regard to the affairs of the society or have in their possession books of accounts, documents, securities or cash balances of the society, to furnish information in regard to the affairs of the society, or to produce documents, and may record their statements on oath.

(2) Upon the conclusion of an inquiry under section 42 or of an inspection under section 43 the Registrar shall communicate the result of the inquiry or inspection to the society and to the creditors of which the society is a debtor.

Levy of costs.

45. Where an inquiry is held under section 42 or an inspection is made under section 43 the Registrar may apportion the costs or any part of the costs, in such manner as he may think just, between the society, the members, creditors or shareholders demanding the inquiry or inspection, and the officers or former officers of the society or any of them.

Recovery of costs.

46. Any sum awarded by way of costs under section 45 may be recovered on the application of the Registrar by a revenue officer or a magistrate having jurisdiction in the place where the person liable for the payment of such sum actually resides or carries on business by the distress and sale of his immovable property as if such sum were an arrear of land revenue or a fine imposed by such magistrate.

Supersession of committee.

47. (1) If, in the opinion of the Registrar, the Managing Committee of any registered society is not functioning properly, he may, after giving an opportunity to the managing committee to state its objections, if any, by order in writing, dissolve the managing committee and appoint a suitable person or persons to manage the affairs of the society for a specified period not exceeding two years. The period specified in such order may, at the discretion of the Registrar, be extended from time to time provided that such order shall not remain in force for more than four years in the aggregate.

(2) The person or persons so appointed shall have power, subject to the control of the Registrar, to recover the assets and discharge the liabilities of the society and take such other action as may be required in its interests.

(3) The Registrar may fix the remuneration payable to the person or persons so appointed. The amount of such remuneration and the other costs, if any, incurred in the management of the society, shall be payable from its funds.

(4) The person or persons so appointed shall, at the expiry of the period of his or their appointment, arrange for the constitution of a new managing committee in accordance with the bye-laws of the society.

(5) Nothing in this section shall be deemed to affect the power of the Registrar to cancel the registration of the society under section 53.

Reference of disputes to Registrar.

43. (1) If any dispute touching the business of a registered society (other than a dispute regarding disciplinary action taken by the society or its Managing Commitee against a paid servant of the socitey) arises—

(a) among members, past members and persons claiming through members, past members or deceased members, or

(b) between a member, past member or person claiming through member, past member or deceased member and the society, Maneging Committee, or any officer, agent or servant of the society, or

*(c) between the Society or its managing Committee, any officer, agent or servant or any past officer, past agent or past servant or the nominee, heir or legal representative of any deceased officer, deceased agent or deceased servant. or

(d) between the society and any other registered society,

such dispute shall be referred to the Registrar for decision.

Explanation.—Each of the following claims, whether admitted or not, is a dispute touching the business of the society within the meaning of this sub-section—

(a) a claim by a registered society for any debt or demand due to it from a member or past member or from the nominee, heir or legal representative of a deceased member;

*(b) a claim by a registered Society on account of the loss suffered by the Society by reason of anything done or omitted to be done by a member, past member or deceased member or by the managing committee or by any officer, agent or servant or any past managing committee or by any past officer, past agent or past servant of the society;

(c) a claim arising out of the constitution, procedure or management of a registered society.

(2) If the Registrar becomes aware of the existence of a dispute which ought to have been, but has not been, referred to him under sub-section (1), he shall require

*As substituted Act No. XX of 1955 published in Gazette Extraordinary No. 151 Dt 21-11-55.

such party or parties to the dispute, as he may think fit, to refer the dispute within such time as he may specify, and if such reference is not made within the time so specified, the dispute shall be deemed to have been referred to him under sub-section (1).

Action to be taken by the Registrar on reference.

49. (1) When a dispute is referred to the Registrar under sub-section (1) of section 48, or deemed under sub-section (2) of that section to have been so referred, the Registrar may —

(a) decide the dispute himself, or

(b) subject to any prescribed conditions refer it for disposal to an arbitrator or arbitrators.

(2) If in his opinion the dispute involves difficult questions of law or fact, the Registrar may defer action in accordance with sub-section (1) with a view to afford to the parties an opportunity of instituting a suit in a civil-court for the settlement of the dispute:

Provided that if no such suit is filed within a period of six months from the date on which the parties to the dispute were informed of the decision of the Registrar to proceed under this sub-section, the Registrar shall proceed in accordance with sub-section (1) and no Court shall have Jurisdiction to entertain a suit relating to the dispute filed after the expiration of the said period.

Withdrawal by Regsitrar of dispute referred to arbitration.

*[50. Subject to such conditions as may be prescribed, the Registrar may withdraw any dispute referred by him under clause (b) of sub-section (1) of section 43 to an Arbitrator or Arbitrators and deal with it in the manner provided in sub-section (1) of section 49.

Revision.

51. (1) The Registrar may, on an application of a party to the dispute, or of his own motion, call for the records of the case disposed of by the Arbitrator or Arbitrators and make such order in the case as he thinks fit.

*As substituted by Act No. XX of 1955 Published in Gazette Extraordinary No. (151) dated 21-11-1955.

(2) The period of limitation for the filing of an application by a party to the dispute or for the calling for of the records by the Registrar, of his own motion, shall be thirty days from the date of disposal of the case by the Arbitrator or Arbitrators.

(3) Any decision passed by the Registrar under clause (a) of sub-section (1) of section 49 or under sub-section (1) of this section shall be final and shall not be called in question in any civil or revenue court.

(4) Any decision passed by Arbitrator or Arbitrators to whom a dispute is referred under clause **(b)** of sub-section (1) of section 49, shall save as provided in sub-section (1), be final and shall not be called in question in any civil or revenue Court.]

Procedure in disposal of disputes.

52. (1) When a dispute referred or deemed to have been referred under section 48 relates to immovable property, the Registrar may make any person appearing to him to have an interest in such property a party to the reference and any decision on the reference shall be as binding on a person so made a party as if he had been an original party to the reference.

(2) The Registrar, and the arbitrator or arbitrators to whom dispute is referred under clause (b) of sub-section (1) of section 49 shall regulate their procedure in accordance with the prescribed provisions.

Dissolution of a society.

53. (1) If the Registrar—

(a) after any inquiry or inspection has been held or made under section 42 or section 43, as the case may be, or

(b) on receipt of an application made by at least three-fourths of the members of the society present at a general meeting held for the purpose, or

(c) for the reason that a society has not commenced working or has ceased working; or is working irregularly,

is of opinion that the society ought to be dissolved, he may by order in writing cancel the registration of the society. A copy of the order shall forthwith be communicated to the society by registered post.

(2) Save in a case to which clause (b) of sub-section (1) applies, an appeal against an order made under sub-section (1) may, within two months of the date of such order, be preferred to Government or to such person as Government may by notification in the Jarida appoint in this behalf:

Provided that such appeal shall be dismissed unless the number of members of the society joining in the appeal is not less than twentyfive or one-tenth of the total number of members whichever is less.

(3) Where no appeal is presented within two months from the making of an order cancelling the registration of the society, the order shall take effect on the expiry of that period.

(4) Where an appeal is presented within two months, the order shall not take effect unless and until it is confirmed by the Government or person hearing the appeal and such confirmation is communicated to the society by registered post.

Cancellation of registration of society.

54. When it is a condition of the registration of a society that it should consist of at least ten members who have attained the age of majority, the Registrar may, by order in writing, cancel the registration of the society if at any time it is proved to his satisfaction that the membership of the society has been reduced to less than ten such members.

Effect of Cancellation of registration.

55. Where the registration of a society is cancelled the society shall cease to exist as a corporate body—

(a) in the case of cancellation in accordance with the provisions of section 53, from the date on which the order of cancellation takes effect;

(b) in the case of cancellation in accordance with the provisions of section 54, from the date of the order.

Appointment and powers of liquidators.

56. (1) Where the registration of a society is cancelled under section 53 or section 54 the Registrar may appoint any person to be liquidator of the society.

(2) Subject to any rules that may be made under this Act, the whole of the assets of the society shall, on the appointment of a liquidator under sub-section (I), vest in such liquidator and he shall have powers to realise such assets by sale or otherwise.

Such liquidator shall also have power, subject to the control of the Registrar—

(a) to institute and defend suits and other legal proceedings on behalf of the society by his name of office and to refer any matter in dispute to arbitration;

(b) to determine from time to time the contribution to be made or remaining to be made by the members or past members or by the estates or nominees, heirs or legal representatives of deceased members or by any officers or former officers, to the assets of the society, such contribution including debts due from such members or persons;

(c) to pay claims against the society (including interest up to the date of cancellation of registration) according to their respective priorities, if any, in full or rateably, as the assets of the society permit; the surplus, if any, remaining after payment of the claims being applied in payment of interest from the date of such cancellation at a rate fixed by him but not exceeding the contract rate in any case;

(d) to make any compromise with any creditor or debtor;

(e) to determine by what persons and in what proportions the costs of the liquidation are to be borne;

(f) to give such directions in regard to the collection and distribution of the assets of the society as may appear to him to be necessary for winding up the affairs of the society; and

(g) to carry on the business of the society so far as may be necessary for the beneficial winding up of the same.

(4) Sections 24 to 27 (both sections inclusive) shall apply in respect of the liquidator in like manner as they apply in respect of a registered society.

(5) When the affairs of the society have been wound up, the liquidator shall deposit the records of the society in such place as the Registrar may direct.

(6) Any person aggrieved by any order of the liquidator may appeal to the Registrar against such order within two months from the date of the issue of the order by registered post.

(7) Save in so far as is expressly provided in this Act, no civil court shall take cognizance of any matter connected with the winding up or dissolution of a society under this Act, and when a liquidator has been appointed no suit or other legal proceeding shall lie or be proceeded with against the society except by leave of the Registrar and subject to such terms as he may impose.

Surcharge.

57. (1) Where in the course of an audit under section 34 or an inquiry under section 42 or an inspection under section 43 or the winding up of a society under section 56, it appears that any person who has taken part in the organisation of management of the society or any past or present officer of the society has misapplied or fraudulently retained or is liable or accountable for any money or other property of the society or has been guilty of misfeasance or breach of trust in relation to the society, the Registrar may, of his own motion or on the application of the auditor, enquirer, inspector, or liquidator, or of any creditor or contributory, examine into the conduct of such person or officer and make an order enquiring him to repay or restore the money or property or any part thereof with interest at such rate as the Registrar thinks just or to contribute such sum to the assets of the society by way of compensation in regard to the misapplication, fraudulent retention, misfeasance or breach of trust as the Registrar thinks just.

(2) This section shall apply notwithstanding that the Act is one for which the offender may be criminally responsible.

Powers to summon and enforce attendance.

58. For the purposes of—

(a) an inquiry under section 42 or an inspection under section 43, the Registrar or authorised person,

(b) the reference of a dispute under section 48, the Registrar and the arbitrator or arbitrators to whom such dispute is referred,

(c) liquidation proceedings under section 56, the Registrar and liquidator,

shall have the powers conferred on a Civil Court by the Indian Civil Procedure Code in respect of—

(i) enforcing the attendance of any person and examining him on oath or affirmation, and

(ii) compelling the production of documents.

Attachment of Property.

59. Where the Registrar is satisfied, on a report or application made to him or otherwise, that any person with intent to defeat or delay the execution of any order that may be passed against him in proceedings on a reference under section 48 *[or revision under section 51] or under section 56 or 57—

(a) is about to dispose of the whole or any part of his property, or

(b) is about to remove the whole of or any part of his property, from limits of the jurisdiction of the Registrar.

the Registrar may, unless adequate security is furnished, direct the conditional attachment of the said property or such part thereof as he thinks necessary and such attachment shall have the same effect as if it had been made by a competent Civil Court.

Mode of execution.

60. (1) Every order passed on a dispute referred to under section 48* [every order passed on a revision under section 51 .] and every order passed by the liquidator under section 56 or by the Registrar under section 57 or section 59 shall, if the parties concerned do not of their own motion give effect thereto, be executed on a certificate signed by the Registrar, or liquidator as the case may be—

(a) by a Civil Court having local jurisdiction as if it were a decree of such Court ; or

(b) by a revenue officer having local jurisdiction as if any sums to be recovered under the order were arrears of land revenue.

(2) When any property attached in execution of an order referred to in sub-section (1) cannot be sold for want of buyers, the same may with the previous consent of the Registrar be handed over to the society on such terms and conditions as may be agreed upon between the society and the Civil Court or as the case may be the revenue officer executing the order.

*As inserted by Act No. XX of 1955 published in Gazette Extraordinary No. (151) dated 21-11-1955.

(3) The Registrar may, of his own motion or at the instance of the Court or revenue officer executing such order, permit the amount recoverable under the order to be recovered in such instalments as he may determine, and he may at any time withdraw the execution proceedings from the Civil Court or revenue officer as the case may be.

Certain officers to be deemed Government servants.

61. The Registrar, a person exercising the powers of the Registrar, a person authorised to hold an inquiry under section 42 or make an inspection under section 43, a liquidator and an arbitrator or arbitrators to whom any dispute is referred under clause (b) of sub-section (1) of section 49 shall be deemed to be Government servants within the meaning of section 21 of the Indian Penal Code.

OFFENCES AND PENALTIES.

Offences.

62. It shall be an offence under this Act if--

(a) a Registered society or an officer or member thereof, wilfully makes a false return or furnishes false information; or

(b) any person wilfully or without reasonable excuse disobeys any summons, requisition or lawful written order issued under the provisions of this Act or does not furnish any information lawfully required from him by a person authorised in this behalf under the provisions of this Act.

Punishment for disposing of property in contravention of section 24.

63. Any member or past member or the nominee, heir or legal representative of a deceased member contravening the provisions of section 24 by fraudulently disposing of any property in respect of which the society is entitled to claim priority under this section or doing any other act to the prejudice of such claim shall be punishable with fine not exceeding two hundred rupees.

Prohibition of the use of the word "Co-operative."

64. (1) No person other than a registered society shall, without the sanction of the Government, trade or carry on business under any name or title of which the word "Co-operative" or its equivalent in any other language forms part :

Provided that nothing in this section shall apply to the use by any person or by his successor in interest of any

name or title under which such person traded or carried on business at the date on which the Co-operative Credit Societies Act (No. II of 1323 F.), came into operation.

(2) Whoever contravenes the provisions of sub-section (1) shall be punishable with fine which may extend to five hundred rupees and in the case of continuing offence with a further fine of fifty rupees for each day on which the offence is continued after conviction therefor.

Punishment for offences not otherwise provided for.

65. Any registered society or any officer or member thereof or any other person guilty of an offence under this Act for which no punishment is expressly provided herein shall be punishable with fine not exceeding fifty rupees.

Cognizance of offence.

66. (1) No Court inferior to that of a Magistrate of the First Class shall try any offence under this Act.

(3) Every offence under this Act shall, for the purposes of the Indian Criminal Procedure Code, be deemed to be non-cognizable.

(3) No prosecution shall be instituted under this Act without the previous sanction of the Registrar. Such sanction shall not be given without affording to the party concerned an opportunity to be heard.

MISCELLANEOUS.

Power of Registrar to recover certain sums by attachment and sale of property.

*[66-A. The Registrar or any person subordinate to him empowered by the Registrar in this behalf may, subject to such Rules as may be prescribed by the Government and without prejudice to any other mode of recovery provided by or under this Act, recover:—

* Inserted by Act No. XXXV of 1954, published in Gazette Extraordinary No. (201) dated 6th December, 1954.

(a) any amount due under a decree or order of a Civil Court, a decision or an award of the Registrar or Arbitrator, or an order of the Registrar, obtained by a registered society or liquidator; or

(b) any sum awarded by way of cost under section 45 to a registered society or to the Government ; or

(c) any sum ordered under section 56 to be recovered as a contribution to the assets of a society or as costs of liquidation; or

(d) any sum ordered under section 57 to be repaid to a Society or recovered as a contribution to its assets, together with the interest, if any, due on such amount or sum and the costs of process, by the attachment and sale or by the sale without attachment of the property of the person against whom such decree, decision, award or order has been obtained or passed.

Registrar or person empowered by him to be a Civil Court for certain purposes.

* 66-B. (1) The Registrar or any person empowered by him in that behalf, shall be deemed, when exercising any powers, under this Act for the recovery of any amount by the attachment and sale or by the sale without attachment of any property, or when passing any orders on any application made to him for such recovery or to take some step-in-aid of such recovery, to be a civil Court for the purposes of Article 182 of the First Schedule to the Indian Limitation Act 1908.

(2) Notwithstanding anything contained in section 60 or 66-A of the Act, the Registrar may, of his own motion, or, on the application of any party to the execution proceedings pending with the Civil Court or the Revenue authorities as the case may be, transfer the execution application at any stage and start execution either by himself or by any officer subordinate to him empowered in that behalf.

* Inserted by Act No. XXXV of 1954, published in Gazette Extraordinary No. (201) dated 6th December, 1954.

Appeal from orders passed under section 66-A.

* 66-C. An appeal shall lie to the Registrar, within such period as may be prescribed, from every order (other than an interim order) passed under section 66-A by any person subordinate to the Registrar empowered in that behalf by the Registrar. The order of the Registrar on such appeal shall be final.]

Recovery of sums due to Government.

67. (1) All sums due from a registered society or from an officer or member or past member of a registered society as such to the Government, may be recovered in the same manner as arrears of land revenue.

(2) Sums due from a registered society to the Government and recoverable under sub-section (1) may be recovered firstly, from the property of the society; secondly, in the case of a society the liability of the members of which it is limited, from the members, subject to the limits of their liability; and thirdly, in the case of any other society from the members.

Powers to exempt societies from conditions as to registration.

68. Notwithstanding anything contained in this Act the Government may, by special order in each case and subject to such condition, if any, as it may impose, exempt any society from any of the requirements of this Act as to registration.

Powers to exempt registered societies from provisions of this Act.

69. The Government may, by general or special order, exempt any registered society from any of the provisions of this Act or may direct that such provisions shall apply to such society with such modifications as may be specified in the order.

Indian Companies Act of 1913 not to apply.

70. The provisions of the Indian Companies Act shall not apply to registered societies.

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*Inserted by Act No. XXXV of 1954, published in Gazette Extraordinary No. (201) dated 6th December, 1954.

71. (1) The Government may, for the whole or any part of the Hyderabad State and for any registered society or class of such societies, make rules to carry out the purposes of this Act. Rules.

(2) In particular and without prejudice to the generality of the foregoing power such rules may provide for all or any of the following matters, namely :—

(a) the manner in which funds may be raised by means of shares, deposits, debentures, or otherwise, and the maximum number of shares or the portion of the capital of a society which may be held or deposited by a member ;

(b) the matters in respect of which a society may or shall make bye-laws, the procedure to be followed in making, altering and abrogating bye-laws, and the conditions to be satisfied prior to the making of such alterations or abrogations;

(c) the manner in which a society may change its address or alter its liabilities ;

(d) the conditions to be complied with by persons applying for admissions or admitted as members, the mode of election of admission of members and the payments to be made and the interest to be acquired prior to the exercise of the rights of membership ;

(e) the extent to which a society may limit the number of its members;

(f) the holding of General Meetings and of meetings of the managing committee, procedure, including the manner of voting, at such meetings, the powers to be exercised by such meetings and the quorum required to constitute such meetings;

(g) the appointments, suspension and removal and the powers and duties, of the members of the managing committee and other officers; the prohibition of the appointment of defaulting members of any society to the managing committee of that or any other society and the conditions, if any, subject to which such defaulting member may be allowed to exercise his rights of membership in the society or to represent it in another society ;

(h) the qualifications and conditions of service of the employees of a registered society;

(i) the accounts and books to be kept by a society, the audit of such accounts, the charges, if any, to be made for such audit, and the periodical publicatoin of a balance sheet showing the assets and liabilities of a society;

(j) the returns to be submitted by a society to the Registrar, and the persons by whom and the form in which such returns shall be submitted;

(k) the form in which copies of entries in books of a society may be made and certified;

(l) the form of and the entries to be made in the registers of members and shares which the society is bound to maintain;

(m) the mode of appointing an arbitrator or arbitrators, the procedure to be followed in proceedings before such arbitrator or arbitrators, the fixation and levy of expenses incidental to the determination of disputes and the appointment of a guardian or pleader for a party to a dispute who is a minor or who by reason of unsound mind or mental infirmity is incapable of protecting his interests;

(n) the withdrawal or expulsion of members the payments if any to be made to members, who withdraw or are expelled, and the liabilities of past members;

(o) the mode in which the value of a deceased member's interest or share shall be ascertained;

(p) the conditions under which a society may give loans to other societies or its members or transact business with other persons;

(q) the conditions under which and the extent to which a society may distribute profits to its members;

(r) the procedure to be followed in the presentation and disposal of appeals from an order of the Registrar;

(s) the procedure to be followed by a liquidator appointed under section 56, appeals from his orders and the disposal of the surplus assets, if any, of the society;

(t) the procedure for audit, inquiry and inspection;

(u) the issue and service of processes, the proof of service thereof, and the cases in which a warrant under the Indian Civil Procedure Code may be issued;

(v) the inspection of documents in the office of the Registrar, an arbitrator or arbitrators or a liquidator and

the levy of fees for the grant of certified copies of the same;

(w) the investigation of claims and objections that may be preferred against any attachment effected by the Registrar or an officer empowered by him;

(x) the custody of property attached under this Act;

(y) any matter which is to be or may be prescribed.

(3) The power to make rules conferred by this section is subject to the condition of the rules being made after previous publication.

(4) All rules made under this section shall be published in the Jarida and on such publication shall have effect as if enacted in this Act.

Repeal and savings.

72. (1) The Hyderabad Co-operative Credit Societies Act (II of 1323 F.) hereinafter in this section referred to as the said Act and all enactments amending the same are hereby repealed.

(2) Every society now existing which has been registered and the said Act shall be deemed to be registered under this Act and its bye-laws shall, so far as they are not inconsistent with any express provision of this Act, be deemed to have been registered thereunder and shall continue in force until altered or rescinded.

(3) All appointments, rules and orders made, notifications and notices issued, and suits and other proceedings instituted under the said Act, shall, so far as may be, be deemed to have been respectively made, issued and instituted under this Act.